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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

BRENDA JEAN MURRY,

Defendant and Appellant.

H038312

(Santa Clara County

Super. Ct. No. C1103634)

I. INTRODUCTION

Defendant Brenda Jean Murry pleaded no contest to possessing a forged driver's license (former Pen. Code, § 470b¹), using personal identifying information without authorization (former § 530.5, subd. (a)), two counts of acquiring access card information with fraudulent intent (§ 484e, subd. (d); and fraudulent use of an access card (§§ 484g, subd. (a), 488), a misdemeanor. The trial court suspended imposition of sentence and placed defendant on probation for three years with various terms and conditions, including that she serve four months in county jail. At the subsequent restitution hearing, the court ordered defendant to pay \$633.06 to two victims and \$398.92 to two other victims.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

Defendant filed a notice of appeal from the restitution orders and we appointed counsel to represent her in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of her right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, we have reviewed the entire record. Following the California Supreme Court's direction in *People v. Kelly, supra*, at page 110, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."²

II. BACKGROUND

Defendant Brenda Jean Murry was charged by complaint filed in March 2011 with possessing a forged driver's license (former § 470b; count 1), using personal identifying information without authorization (former § 530.5, subd. (a); count 2), two counts of acquiring access card information with fraudulent intent (§ 484e, subd. (d); counts 3 & 4), and fraudulent use of an access card (§§ 484g, subd. (a), 488; count 5), a misdemeanor). According to the complaint, the crimes took place on or about February 25, 2011.

In August 2011, defendant pleaded no contest to all five counts with the understanding that she would receive four months in county jail. The probation officer subsequently prepared a waived referral memorandum that indicated that defendant had charged more than \$1,000 without authorization against the credit cards of at least two victims.

² We take judicial notice of this court's opinion in a related appeal, *People v. Murry* (Oct. 30, 2012, H037944) [nonpub. opn.] (Evid. Code, § 452, subd. (d)(1).) Our background summary includes some information that we have taken from the prior opinion.

In February 2012, the trial court suspended imposition of sentence and placed defendant on probation for three years with various terms and conditions, including that she serve four months in county jail. Defendant was granted 25 days of custody credits, consisting of 13 actual days plus 12 days conduct credit pursuant to section 4019. The court also imposed various fines and fees, including a \$200 restitution fine (§ 1202.4).

A restitution hearing was held on March 26, 2012. The prosecutor presented evidence that two victims, Dannie and Susan Chao, had sustained a loss of \$633.06 and two other victims, Lydia and Martin Titcomb, had sustained a loss of \$398.92, and requested orders of restitution in those amounts. Defense counsel objected on the ground that the victims had not suffered an actual loss since, in his experience, banks do not hold the credit card holder responsible for such losses. The trial court ruled that that restitution must be paid to the direct victims and therefore ordered payment of restitution as requested.

An order of restitution (§ 1202.4, subd. (f)) and abstract of judgment requiring defendant to pay restitution in the amount of \$633.06 to Dannie and Susan Chao was entered on March 26, 2012. An order of restitution (§ 1202.4, subd. (f)) and abstract of judgment requiring defendant to pay restitution in the amount of \$398.92 to Lydia and Martin Titcomb was also entered on March 26, 2012.

III. APPEAL

Defendant filed a timely notice of appeal from the March 26, 2012 orders after judgment on May 16, 2012. Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d at pp. 441-443.)

IV. DISPOSITION

The March 26, 2012 orders after judgments are affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MÁRQUEZ, J.